



Australian Government



TAX
PRACTITIONERS
BOARD

INFORMATION FOR TAX PRACTITIONERS

REASONABLE CARE TO ENSURE TAXATION LAWS ARE APPLIED CORRECTLY

Overview

You must take reasonable care to ensure that taxation laws are applied correctly to the circumstances in relation to which you are providing advice to a client (Code of Professional Conduct (Code) item 10).

What does 'reasonable care' mean?

There is no set formula for determining what it means to take reasonable care in any given situation. Rather, it will depend on an examination of all the facts and circumstances, including:

- the nature and scope of the tax agent services being provided, and
- the client's level of professional knowledge and experience.

The standard of 'reasonable care' generally required is that of a competent and reasonable person, possessing the knowledge, skills, qualifications and experience that a registered tax practitioner is expected to have, in the circumstances.

What is 'reasonable care in ensuring that taxation laws are applied correctly' mean?

You must take reasonable care to ensure you correctly interpret and apply the law in your client's circumstances.

This may include you referring to materials such as:

- legislation and relevant extrinsic material
- case law
- rulings and determinations issued by the Commissioner of Taxation
- other guidance material published by the Australian Taxation Office, professional associations or other relevant regulatory agency.

If you incorrectly interpret and apply the law, it does not necessarily mean that you have failed to take reasonable care. However, if you incorrectly apply the taxation laws to the circumstances of a client and, in doing so, did not take reasonable care to determine the correct taxation treatment in the circumstances, you will likely be in breach of Code item 10.

What does '... to the circumstances in relation to which the registered tax practitioner is providing advice to a client' mean?

The requirement to take reasonable care relates to the circumstances to which you are providing advice to your client and is therefore subject to the agreed terms of the engagement with your client. These terms may be covered in a letter of engagement, an email, or other communication with your client.

Advice provided may be written or verbal.

Ultimately, whether you have taken reasonable care under Code item 10 will be a question of fact to be determined by examining all of the circumstances of a particular situation, including:

- the terms of the engagement between you and your client
- the complexity of the transaction you are advising on
- your client's circumstances, including their level of sophistication (such as their education and tax knowledge)
- the nature of any pre-existing relationship between you and your client.

Consequences for failing to comply with Code item 10

If you fail to take reasonable care to ensure that taxation laws are applied correctly, the TPB may find that you have breached Code item 10 and impose sanctions for that breach.

In addition, the same conduct which may amount to a failure to take reasonable care under Code item 10 could constitute a breach of another Code item.

i Further information

- [TPB \(1\)18/2013 Reasonable care to ensure taxation laws are applied correctly](#)